

Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TELEBUYER, LLC,

Plaintiff and
Counterdefendant,

v.

AMAZON.COM, INC., *et al.*,

Defendants and
Counterclaimants.

NO. 2:13-cv-01677-BJR

**TELEBUYER'S
RECOMMENDATION FOR THE
APPOINTMENT OF A TECHNICAL
ADVISOR**

1 Pursuant to the Court's Order (Dkt. # 165), the parties have conferred on the issue
2 and are unable to agree on one recommendation to serve as a neutral Technical Advisor.
3 Therefore, as directed by the Court, Telebuyer hereby submits the name and curriculum
4 vitae of one candidate to serve as a neutral Technical Advisor.

5 Telebuyer recommends A.J. Nichols, Ph.D. to serve as a neutral Technical Advisor.
6 Dr. Nichols' curriculum vitae (obtained from <http://neutralexpert.com/biography.htm>) is
7 attached hereto as **Exhibit A**. A list of Dr. Nichols' prior service as a neutral Technical
8 Advisor (obtained from <http://neutralexpert.com/neutral.htm>) is attached hereto as **Exhibit**
9 **B**. Telebuyer further certifies that it has had no contact, either directly or indirectly, with
10 Dr. Nichols.
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1 DATED: October 23, 2014.

2 By: /s/ Mark A. Samuels

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*Attorneys for Plaintiff and
Counterdefendant Telebuyer, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: October 23, 2014 at Seattle, Washington.

s/Sue Stephens
Sue Stephens, Legal Assistant

Exhibit A

A. J. Nichols, Ph.D.

Neutral Computer Expert, Special Master, Arbitrator, Mediator



A. J. "Nick" NICHOLS provides services as a neutral technical and business expert in all aspects of litigation, pre-litigation evaluation, mediation, trial, and arbitration.

Neutral Experience. Dr. Nichols has acted as a Special Master and neutral technology expert for judges of United States District Courts; the Supreme Court of Singapore; the Superior Courts of San Francisco, Santa Clara, and San Diego Counties; to JAMS neutrals; and directly to the parties involved.

Dr. Nichols serves as an arbitrator and mediator for the American Arbitration Association, as an arbitrator for the San Francisco and San Mateo County Fee Arbitration programs, and as a Neutral Arbiter for Just Resolve. He is on the mediation panels of the Northern District of California, the San Francisco Community Boards resolution center, and the Peninsula Conflict Resolution Center in San Mateo, California. He obtained his mediation training at Harvard Law School and through the organizations for which he mediates.

In acting as a Special Master (5 cases) and neutral expert (20 cases), Dr. Nichols has:

- assisted judges in their understanding of relevant technology, expert reports, and exhibits
- reviewed orders for technical accuracy
- monitored compliance with court orders regarding technology issues
- performed forensic analysis of disk drives, including restoration of deleted documents
- examined computer programs for evidence of misappropriation and other malfeasance
- resolved discovery issues in the production of source code and specification of trade secrets
- written reports and orders on the above

Service as a Neutral or Special Master. Among the 25 cases in which he has assisted as a Special Master or neutral expert are:

- *In re Napster* and *Applied Materials v. MultiMetrixs* (Hon. Marilyn Hall Patel)
- *Cisco v. Huawei* (the parties themselves)
- *Software Rights Archive v. Facebook, LinkedIn, and Twitter*; *Sun Microsystems v. Microsoft*; and *Cadence Design Systems v. Avant!* (Hon. Ronald M. Whyte)
- *Creative Technology v. Aztech Systems* (Supreme Court of Singapore)
- *Revolutionary Software, Inc. v. Eclipsys Corporation* (Hon. James Ware)
- *Comcast Cable Communications, et al. v. Sprint Communications, et al.* (Hon. Jan DuBois)
- *Planet Bingo, et al. v. Randy Von Drasek, et al.* (Hon. George Wu)

As a mediator and arbitrator, he has been a neutral in more than 50 disputes ranging from patent infringement to business contracts to neighbor and family issues to fees charged by attorneys.

Expert Witness Background. Dr. Nichols has acted as an expert witness or consultant for plaintiffs and defendants in nearly 100 litigation matters involving patents, trade secret misappropriation, copyright infringement, and design defects. The technologies involved both hardware and software across the breadth of the computer field. Examples include social media, peer-to-peer communications, laser eye surgery software, disk drives, web page design, BIOS operation, data communications, electronic games, networks, image rendering, logic design, and clean room setup.

Education and Experience. His education includes a Ph.D. in Electrical Engineering from Stanford University, an M.S in EE from Stanford, and B.S degrees in both Business Management and Electrical Engineering from the University of Colorado, Boulder.

Dr. Nichols has a broad technology and business background in the engineering of computer hardware and software. He served as an engineering executive, developer, and researcher for Millennium Systems, Intel Corporation, American Microsystems, Novar Corporation, and Lockheed Missiles & Space Company. He founded Probitas to provide consulting and product development assistance to high technology companies and has served as president since its inception.



Exhibit B

A. J. NICHOLS, Ph.D.
SERVICE AS A MASTER AND NEUTRAL EXPERT

Time Period	Reporting to	Case	Counsel for First Party	Counsel for Second Party
March to September 2014	Hon. Jan E. Dubois U.S. District Court, Eastern District of Pennsylvania Philadelphia, PA	Comcast Cable Communications, LLC et al. v. Sprint Communications Company L.P. et al.	Anthony I. Fenwick, Esq. David J. Lisson, Esq. Davis Polk & Wardwell LLP Menlo Park, CA William T. Hangle, Esq. Rebecca S. Melley, Esq. Hangle Aaronchick Segal Pudlin & Schiller Philadelphia, PA	Robert H. Reckers, Esq. Aaron E. Hankel, Esq. Shook, Hardy & Bacon LLP Houston, TX and Kansas City, MO
August 2013 to date	Hon. Ronald M. Whyte U.S. District Court, Northern District of California San Jose, CA	Software Rights Archive, LLC v. Facebook, Inc., LinkedIn Corporation, and Twitter, Inc.	Victor G. Hardy, Esq. Nicole E. Glauser, Esq. Chester J. Shiu, Esq. William M. Parrish, Esq. Dinovo Price Ellwager & Hardy Austin, TX W. Paul Schuck, Esq. Bartko, Zankel, Bunzel & Miller San Francisco, CA	Heidi L. Keefe, Esq. Lowell D. Mead, Esq. Mark Weinstein, Esq. Carrie J. Richey, Esq. Michael G. Rhodes, Esq. Cooley, LLP Palo Alto and San Francisco, CA Robert A. Van Nest, Esq. David Silbert, Esq. Adam Bhansali, Esq. Ajay Krishnan, Esq. David W. Rizk, Esq. Sharif E. Jacob, Esq. Keker & Van Nest LLP San Francisco, CA
September 2010 to May 2012	Hon. George H. Wu U.S. District Court Central District of California Los Angeles, CA	Planet Bingo, <i>et al.</i> v. Randy Von Drasek, <i>et al.</i> and Electronic Game Solutions, Inc.	Jeffrey Weiss, Esq. Karen J. Sepura Fouts, Esq. Weiss & Moy, P.C. Washington, DC	Erik L. Jackson, Esq. Nathan Dooley, Esq. Cozen O'Connor Los Angeles, CA Alan N. Harris, Esq. Jason R. Gourley, Esq. Bodman PLC Ann Arbor and Detroit, MI

Appointed as Master
TELEBUYER'S RECOMMENDATION FOR
THE APPOINTMENT OF TECH. ADVISOR

A. J. NICHOLS, Ph.D.
SERVICE AS A MASTER AND NEUTRAL EXPERT

Time Period	Reporting to	Case	Counsel for First Party	Counsel for Second Party
May to September 2009	Hon. Julie A. Robinson U.S. District Court District of Kansas, Topeka Division Topeka, KS Appointed as Master under FRCP 53	NovAtel Inc. v. POINT, Inc. and Sokkia Topcon Co. Ltd.	Jason A. Engel, Esq. Brian J. Arnold, Esq. Alan L. Barry, Esq. KL Gates Chicago, IL Paul V. Herbers, Esq. Joe B. Whisler, Esq. Cooling & Herbers, P.C. Kansas City, MO	Anthony F. Rupp, Esq. Amy E. Morgan, Esq. Polsinelli Shughart Overland Park, KS James M. Armstrong, Esq. Jeffrey A. Jordan, Esq. Foulston Seifkin Wichita, KS James E. Hough, Esq. Kyle W.K. Mooney, Esq. Morrison Foerster New York, NY
March to April 2008	Hon. Ronald S. Prager Superior Court Of California Central Division San Diego, CA	Hassan Yarpezeskan v. Jeffrey D. Lewin; Sullivan Hill Lewin Req & Engel; and Does	Deborah A. Wolfe, Esq. Wolfe Legal Group San Diego, CA	Danel M. White, Esq. Steven G. Amundson, Esq. White, Oliver & Amundson San Diego, CA Jeffrey D. Lewin, Esq. Sullivan Hill Lewin Rez & Engel San Diego, CA
March to April 2008	Hon. Marilyn Hall Patel U.S. District Court Northern District of California San Francisco, CA Appointed as Master under FRCP 53	Applied Materials, Inc. v. MultiMetrixs, LLC	Rohit Singla, Esq. Jefferey L. Bleich, Esq. Munger, Tolles & Olson LLP San Francisco, CA	Sally J. Wiggins, Esq. Paul K. Vickrey, Esq. Nicholas M. Dudziak, Esq. Angelica M. Regalado, Esq. Niro Scavone Haller & Niro Chicago, IL

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Time Period	Reporting to	Case	Counsel for First Party	Counsel for Second Party
April 2007 to May 2011	Hon. Marilyn Hall Patel U.S. District Court Northern District of California San Francisco, CA Appointed as Master under FRCP 53	e-Smart Technologies, Inc. and IVI Smart Technologies, Inc. v. Wayne Drizin; Michael Gardiner; Electronic Plastics Corporation, and A Card Company	Maranda E. Fritz, Esq. Hinshaw & Culbertson LLP New York, NY Gregory B. Wood, Esq. Sarah Silbert, Esq. Fulbright & Jaworski LLP Los Angeles, CA	Marc T Rasich, Esq. Timothy K. Conde, Esq. Stoel Rives LLP Salt Lake City, UT Patricia D. Douglass, Esq. Great Falls, VA
February to March 2007	Hon. James J. DiCesare Orange County Superior Court Westminster, CA	Astea International Inc. and FC Acquisition Corp. v. Iteration2, Mike Gillis, Mike Gillis & Associates, LLC, and Paul Osterhoudt	Alisa A. Martin, Esq. Michael G. Rhodes, Esq. Philip C. Tencer, Esq. Trent C. Packer, Esq. Cooley Godward Kronish LLP San Diego, CA	Edson K. McClellan, Esq. Thomas S. Salinger, Esq. Paul E. Rice, Esq. Rutan & Tucker, LLP Costa Mesa, CA John J. Selbak, Esq. Corporate Counsel Partners Pasadena, CA
January to December 2007	Hon. James Ware U.S. District Court Northern District of California San Jose, CA Appointed as Master under FRCP 53	Revolutionary Software, Inc. v. Eclipsys Corporation	Cynthia M. Judy, Esq. Prunedale, CA Timothy James Schmal, Esq. Timothy Robert Volkman, Esq. Burton Volkman & Schmal Santa Cruz, CA	Michael B. Smith, Esq. Denis R. Salmon, Esq. Joseph Guzzetta, Esq. Gibson Dunn & Crutcher LLP Palo Alto, CA
January 2006 to May 2007	The parties themselves	Decision Insights, Inc. v. Sentia Group, Inc.	Nicholas Hantzes, Esq. Hantzes & Reiter Vienna, VA	Theodore A. Pianko, Esq. Gary Dukarich, Esq. Joel A. Kauth, Esq. Christie, Parker & Hale LLP Newport Beach, CA Becky V. Christensen, Esq. Edward F. O'Connor, Esq. O'Connor Christensen & McLaughlin Irvine, CA

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Time Period	Reporting to	Case	Counsel for First Party	Counsel for Second Party
December 2005 to May 2006	Hon. Maria-Elena James U.S. District Court Northern District of California San Francisco, CA	Friskit, Inc. v. RealNetworks, Inc., <i>et al.</i>	Michael H. Baniak, Esq. Jeffrey A. Pine, Esq. Anuj K. Wadhwa, Esq. Baniak Pine & Gannon Chicago, IL Francis Torrence, Esq. Seyfarth Shaw LLP San Francisco, CA	Charles K. Verhoeven, Esq. David S. Perlson, Esq. Deepak Gupta, Esq. Evette D. Pennypacker, Esq. Quinn Emanuel Urquhart Oliver & Hedges, LLP San Francisco, CA and Redwood Shores, CA
March to July 2005	The parties themselves	Possible misappropriation of trade secrets	Clark S. Stone, Esq. MacPherson, Kwok, Chen & Heid, LLP San Jose, CA	Ina Stangenes, Esq. Bergeson, LLP San Jose, CA
January 2005 to August 2006	Hon. Kevin E. Enright Superior Court of San Diego County, CA Hon. Wayne Peterson (Retired) Special Master ADR Services San Diego, CA	Abacus America, Inc., v. Alabanza <i>et al.</i>	Michael J. Hickman, Esq. Musick, Peeler & Garrett, LLP San Diego, CA Daniel M. White, Esq. Steven G. Amundson, Esq. Beth J. Manover, Esq. White & Oliver, APC San Diego, CA	Karen S. Crawford, Esq. Patricia P. Hollenbeck, Esq. John P. Cooley, Esq. Duane Morris LLP San Diego, CA
August to December 2004	The parties themselves	TRS Consultants, Inc. v. Elation Systems <i>et al.</i>	Melinda M. Morton, Esq. Bergeson, LLP San Jose, CA	David A. Priebe, Esq. Gray Cary Ware & Freidenrich East Palo Alto, CA
October 2003 to June 2004	The parties themselves	Cisco Systems, Inc. and Cisco Technology, Inc. v. Huawei Technologies Co., Ltd., Huawei America, Inc. and Futurewei Technologies, Inc.		

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Time Period	Reporting to	Case	Counsel for First Party	Counsel for Second Party
April 2003 to January 2004	The parties themselves	SAT Corporation v. Zeta Technologies, Ltd., et al.	David W. Goewey, Esq. Venable, Baetjer, Howard & Civiletti Washington, DC	Gary W. Johnson, Esq. Weston Hurd Fallon Paisley & Howley Cleveland, OH
November 2002 to January 2004	The parties themselves	Niku Corporation v. Business Engine Corporation	Carlyn Clause, Esq. Fenwick & West San Francisco, CA	James T. Fousekis, Esq. Robb A. Scott, Esq. Steinhart & Falconer San Francisco, CA
March 2002 to June 2003 and October 2005 to May 2006	Hon. John Flaherty, (Retired) JAMS Discovery Referee San Jose, CA	In Re Garth G. Conlan Revocable Living Trust	Steven W. Valdes, Esq. San Jose, CA Keith P. Bartell, Esq. Carr, McClellan, Ingersoll, Thompson & Horn Burlingame, CA Jeff Carchidi, Esq. Temmerman & Cilley San Jose, CA	Dennis T. Rice, Esq. Howard Rice Nimerovsky Canady Falk & Rabkin San Francisco, CA William Faulkner, Esq. McMannis, Faulkner & Morgan San Jose, CA Robert C. Danneskiold, Esq. John Ottoboni, Esq. Ferrari Ottoboni San Jose, CA
January to April 2002	Hon. Charles A. Legge, (Retired) JAMS Mediator San Francisco, CA	Private mediation involving dissolution of a software company	Marc P. Fairman, Esq. Law Offices of Marc P. Fairman San Francisco, CA	Joseph Kouri, Esq. Bonnoni & Kouri Palo Alto, CA

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Time Period	Reporting to	Case	Counsel for First Party	Counsel for Second Party
April 2001 to February 2005	Hon. Marilyn Hall Patel Chief Judge U.S. District Court Northern District of California San Francisco, CA	Various companies in the Recording Industry Association of America, various music publishers, and others v. Napster, Inc.	Russell J. Frackman, Esq. Mitchell Silberberg & Krupp LLP Los Angeles, CA	Robert B. Silver, Esq. Boies Schiller & Flexner LLP Armonk, NY Laurence F. Pulgram, Esq. Fenwick & West LLP San Francisco, CA Steven M. Cohen, Esq. Kronish Lieb Weiner & Hellman LLP New York, NY
August 2000	Hon. Everett A. Hewlett, Jr. Discovery Commissioner San Francisco County Superior Court San Francisco, CA	McKesson HBOC, Inc. v. Terry Merrill, Michael Jansen, and Bindley Western Industries, Inc.	Tyree P. Jones, Jr., Esq. Interactive Law Group San Francisco, CA	Nancy Potter, Esq. Crosby, Heafey, Roach & May San Francisco, CA
August 1998 to January 2001	Hon. Ronald M. Whyte U.S. District Court Northern District of California San Jose, CA Hon. Edward A. Infante U.S. District Court Northern District of California San Jose, CA	Sun Microsystems, Inc. v. Microsoft Corporation	Lloyd R. Day, Jr., Esq. Day, Casebeer, Madrid, Winters & Batchelder, LLP Cupertino, CA Janet L. Cullum, Esq. Cooley Godward, LLP Palo Alto, CA	Karl J. Quackenbush, Esq. Preston Gates & Ellis, LLP Seattle, WA Terrence P. McMahon, Esq. Orrick, Herrington & Sutcliffe, LLP Menlo Park, CA Allen Ruby, Esq. Ruby & Schofield San Jose, CA
September 1996 to March 2001	Hon. Ronald M. Whyte U.S. District Court Northern District of California San Jose, CA	Cadence Design Systems, Inc. v. Intel, Inc., et al.	Michael H. Page, Esq. Keker & Van Nest San Francisco, CA	Daniel H. Bookin, Esq. Melveny & Meyers San Francisco, CA

TECH. BUYER'S RECOMMENDATION FOR
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Time Period	Reporting to	Case	Counsel for First Party	Counsel for Second Party
June to November 1996	Hon. M. Karthigesu, Justice Hon. L. P. Thean, Justice Hon. Lai Kew Chai, Judge Supreme Court Singapore	Creative Technology, Ltd. v. Aztech Systems, Pte. Ltd.	Kevin Garnett, Q.C. London, England Morris John Lim Yee Ming Drew & Napier Singapore	Peter Prescott, Q.C. London, England Ng Soon Kai Ng, Chong & Hue Singapore
October 1992 to March 1993	Hon. Lloyd E. Blanpied, Jr. (retired) JAMS Arbitrator San Diego, CA	Private arbitration involving misappropriation of software		

Last updated September 25, 2014